

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

Procedural Rules for
Electronic Case Filing (ECF)

Administrative Order
No. 02-03

Federal Rule of Civil Procedure, hereafter FRCP, 83 and Federal Rules of Bankruptcy Procedure, hereafter FRBP, 5005(a)(2), 9011, and 9029 authorize this Court to establish practices and procedures for the filing, signing, and verification of pleadings and papers by electronic means; and

The *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means*, hereafter *Administrative Procedures*, have been reviewed by this Court; and

The *Administrative Procedures* are consistent with and further the responsibility of the Clerk of Court for the control of the Court's docket under FRBP 5003, including safeguarding the integrity of the Court's docket; and

The *Administrative Procedures* do not impose fees inconsistent with the present fee structure adopted by the Judicial Council of the United States pursuant to 28 U.S.C. § 1930; and

The *Administrative Procedures* provide adequate procedures for filing pleadings and papers and provide access to review and retrieve records and dockets of this Court by parties who are not able to access the Electronic Case Filing System over the Internet, thereby complying with the requirements contained in 11 U.S.C. § 107(a); and

The *Administrative Procedures* do not impair the ability of the Clerk of the Court to perform statistical reporting responsibilities for both the Court and the Administrative Office of

the United States Courts; and

The *Administrative Procedures* are consistent with notice requirements of the FRBP and the Local Bankruptcy Rules for Northern District of New York, hereafter LBR.

IT IS ORDERED that:

1. Introduction and Definitions.
 - a. The Clerk of the Bankruptcy Court for the Northern District of New York is authorized to implement, publish, and update the *Administrative Procedures* for the district, including but not limited to the procedures for registration of attorneys and other participants, and for the distribution of logins and passwords to permit electronic filing and notice of pleadings and other papers.
 - b. Continued adherence to the *Northern District of New York Local Bankruptcy Rules* is not precluded by electronic filing. In the event of a conflict between the *Northern District of New York Local Bankruptcy Rules* and the *Administrative Procedures*, the *Administrative Procedure*, as relating to the electronic filing of petitions, pleadings and other papers, shall govern.
 - c. “Electronic Case Files”, as referred to in the *Administrative Procedures*, are petitions, pleadings, and other papers that are stored in a fixed electronic format instead of on paper. This Court accepts documents only in the *Portable Document Format* (PDF) and creditor matrices in ASCII DOS Text format (TXT).
 - d. “Conventional Case Files”, as referred to in the *Administrative Procedures*, are petitions, pleadings, and other papers that are filed with the Court in “paper format”. All filing requirements as provided in the FRBP and the LBR shall prevail unless otherwise noted in the *Administrative Procedures*.

- e. “Filer”, as referred to in the *Administrative Procedures*, is defined as the attorney of record or the actual party in interest, if not represented by counsel, who transmits any pleading or document to the Court.

2. Electronic Filing of Documents.

- a. The electronic filing of a pleading or other paper in accordance with the Electronic Filing Procedures shall constitute entry of that pleading or other paper on the docket kept by the clerk under FRBP 5003.
- b. The Office of the Clerk shall enter all orders, decrees, judgments, and proceedings of the court in accordance with the Electronic Filing Procedures, which shall constitute entry of the order, decree, judgment, or proceeding on the docket kept by the clerk under FRBP 5003 and 9021.
- c. For filings that require a fee to be paid, the Office of the Clerk will automatically draw payment from the credit card account that will be provided with the attorney registration.
- d. A “Chambers Copy” in paper format for chambers is required for the following matters. The copy must be clearly marked as **“ECF CASE -CHAMBERS COPY”** and must be submitted in compliance with the requirements of LBR 9013-1. The Chambers Copy need not contain a copy of the original signature. Unless directed by the Court, copies should not be faxed to Chambers or Courtroom Services. Copies should be sent via the mail or hand delivered.
 - (1) Utica Chambers:
 - (a) Notice of Hearing, Motion, application and certificate of service;
 - (b) Opposition, response, or any pleading relating to a hearing;
 - (c) Opposition to disclosure statements in a chapter 11;

- (d) Opposition to confirmation of a plan regarding any chapter;
- (e) All pleadings filed in an adversary proceeding;
- (f) Pretrial statements;
- (g) Memorandums of Law or documents filed in regard to a submitted matter;
- (h) All documents regarding an appeal, withdrawal of reference, or FRBP 9033 objections.

(2) Albany Chambers:

- (a) Notice of Hearing, Motions, applications, and certificate of services, excluding Ch. 13 Standing Trustee's motions to dismiss, motions to determine/expunge claim, and motions to determine value;
- (b) Opposition, response, or any pleading relating to a hearing;
- (c) Opposition to disclosure statements in a chapter 11;
- (d) Opposition to confirmation of a plan regarding any chapter;
- (e) Pretrial statements;
- (f) All documents regarding an appeal, withdrawal of reference, or FRBP 9033 objections;
- (g) Memorandums of Law or documents filed in regard to a submitted matter

3. Logins and Passwords

- a. Each attorney admitted to practice in the Northern District of New York and currently in good standing, and other filers shall be entitled to a single Electronic Case Filing System login and password to permit him/her to electronically file and electronically receive pleadings and other documents.
- b. Login and password registration forms are available in the Office of the Clerk and on the Court's Internet site, www.nynb.uscourts.gov.

- c. A trustee or standing trustee who also serves as private counsel should submit two separate Attorney Registration Forms and will receive two separate logins and passwords; one in his/her role as trustee and one in his/her role as private counsel.
- d. No attorney shall knowingly permit or cause to permit his/her password to be utilized by anyone other than an authorized employee of his/her law firm.
- e. No person shall knowingly utilize or cause another person to utilize the password of a registered attorney unless such person is an authorized employee of the law firm.
- f. Misuse of the Electronic Case Filing System login and password may result in revocation of the login and password of the attorney or party and/or the imposition of sanctions.

4. Signatures

- a. The electronic filing of a petition, pleading, motion, or other paper by an attorney or participant who is a registered user in the Electronic Case Filing System shall constitute the signature of that filer under FRBP 9011.
- b. Any pleading, affidavit or other document filed electronically shall contain an electronic signature of the filer, e.g., “/s/ name.”

5. Notice of Electronic Filing and Service

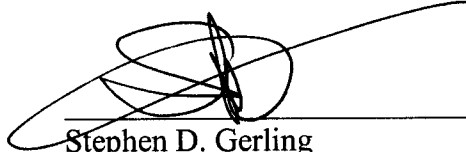
- a. Whenever a pleading or other paper is filed electronically, a *Notice of Electronic Filing* will be automatically generated by the Electronic Case Filing System at the time of the filing and sent electronically to the party filing the pleading or other paper, as well as to all parties in the case who are registered participants in the Electronic Case Filing System or have otherwise consented to electronic service.

- b. If the recipient of notice or service is a registered participant in the Electronic Case Filing System or has otherwise consented to electronic service, service of the *Notice of Electronic Filing* shall be the equivalent of service of the pleading or other paper by first class mail, postage prepaid.
 - c. Pleadings or other documents which are not filed electronically shall be served in accordance with the FRBP and the LBR except as otherwise provided by Order of the Court.
 - d. **Participation in the Electronic Case Filing System by receipt of a login and password from the Court shall constitute a request for service and notice electronically pursuant to FRBP 9036. Participants in the Electronic Case Filing System, by receiving a login and password from the Court, agree that notice and service by electronic means constitutes proper service.**
 - e. A summons and the appropriate number of copies must be filed with the Court conventionally. Service of a summons and a complaint filed in an adversary proceeding shall continue to be made conventionally pursuant to FRBP 7004. Service of a summons and an involuntary bankruptcy petition shall continue to be made pursuant to FRBP 1010 and 7004.
 - f. Service by electronic means is not effective if the party making service learns that the attempted service did not reach the person to be served.
6. The provisions of this Order shall apply to all electronically filed cases and proceedings and cases and proceedings converted to the Electronic Case Filing System in the U. S. Bankruptcy Court for the Northern District of New York. Amendments to this Order may be entered from time to time in keeping with the needs of the Court.

7. The effective date of this General Order is January 2, 2003.

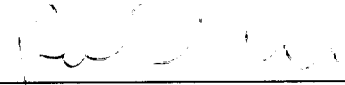
IT IS SO ORDERED.

DATED: December 13, 2002 By the Court



Stephen D. Gerling
Chief Judge, U. S. Bankruptcy Court

DATED: December 16, 2002 By the Court



Robert E. Littlefield, Jr.
Judge, U. S. Bankruptcy Court